

Senate Bill 51

By: Senators Smith of the 52nd, Goggans of the 7th, Hudgens of the 47th, Hamrick of the 30th and Harp of the 29th

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the
2 Department of Human Resources, so as to permit the department to obtain national criminal
3 history background data on owners of personal care homes, private home care providers, and
4 child welfare agencies; to provide for definitions; to provide for the establishment of a uniform
5 method of obtaining national criminal history background checks; to prohibit owners with
6 certain criminal records from operating licensed facilities; to provide for rules and
7 regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the Department
11 of Human Resources, is amended by adding a new Code section to read as follows:

12 "49-2-14.1.

13 (a) As used in this Code section, the term:

14 (1) 'Criminal history background check' means the data derived from a fingerprint based
15 check of state and national criminal history records based on a submission of a set of
16 classifiable fingerprints and records search fee.

17 (2) 'Criminal record' means a record of an arrest where the time for prosecution of the
18 charge has not expired or a finding or verdict of guilty or a plea of guilty or a plea of nolo
19 contendere or being exonerated and discharged without a court adjudication of guilt with
20 regard to the crimes as set forth in Code Sections 42-1-12, 16-5-100, and 16-6-5.1 and
21 as authorized under Code Section 35-3-34.1, regardless of whether an appeal of the
22 conviction has been sought.

23 (3) 'Facility' means a:

24 (A) Personal care home required to be licensed or permitted under Code Section
25 31-7-12;

(B) Private home care provider required to be licensed under Article 13 of Chapter 7 of Title 31; or

(C) Child welfare agency, including a child-caring institution, child-placing agency, and maternity home required to be licensed under Code Section 49-5-12.

(4) 'License' means the document issued by the department to authorize the facility to operate.

(5) 'Owner' means any individual or any person affiliated with a corporation, partnership, or association who will have access to the persons receiving care under the license of the facility and purports to or exercises authority of the owner in the licensed facility who applies to operate a licensed facility in Georgia.

(b) No owner may operate a licensed facility in Georgia without first submitting to a criminal history background check.

(c) It is unlawful for an owner to hold a license to operate a facility with a criminal record as defined in this Code section. The department shall revoke or refuse to issue the license of any owner to operate a facility if it determines that the owner has a criminal record.

(d) If the department issues a license and subsequently learns that the owner may have a criminal record, the department is authorized to require the owner to obtain a new criminal history background check.

(e) Prior to approving any license for a new facility, the department may receive from any law enforcement agency criminal history background check data, including arrest and conviction data, and any and all other information which it may be provided pursuant to state or federal law which is relevant to any owner of a facility to the fullest extent permissible by federal and state law. Prior to transferring ownership to a new owner or owners, an existing facility shall cause to be submitted any forms, data, and information as determined by the department to facilitate the department receiving criminal history background check data from any law enforcement agency regarding a proposed new owner or owners. The license of an existing facility may not be transferred to a new owner or owners until the requirements of this Code section have been met and the department has made at least a preliminary determination based on available criminal history data that the new owner or owners do not have a criminal record pending receipt of the full criminal history background check data of a proposed new owner or owners.

(f) The department shall establish a uniform method of obtaining criminal history background check data required under this Code section. Such uniform method shall require the submission to the Georgia Crime Information Center of two complete sets of fingerprints and the records search fee. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the

1 other set and promptly conduct a search of its own records and records to which it has
2 access. After receiving the fingerprints and fee, the Georgia Crime Information Center shall
3 notify the department in writing of any derogatory finding, including, but not limited to, any
4 criminal record data regarding the fingerprint records check or if there is no such finding.

5 (g) All background check data received shall be for the exclusive purpose of approving or
6 denying the granting or renewing of a license to a new facility or the revision of a license of
7 an existing facility when a new owner or owners are proposed and shall not be released or
8 otherwise disclosed to any other person or agency except to any person or agency with a
9 legal right to inspect the facility. All such background check data collected by the
10 department shall be maintained by the department pursuant to laws regarding and the rules or
11 regulations of the Federal Bureau of Investigation and the Georgia Crime Information
12 Center, as is applicable. Penalties for the unauthorized release or disclosure of any
13 background check data shall be as prescribed pursuant to laws regarding and rules or
14 regulations of the Federal Bureau of Investigation and the Georgia Crime Information
15 Center, as is applicable.

16 (h) The department shall promulgate written rules and regulations to implement the
17 provisions of this Code section."

18 **SECTION 2.**

19 All laws and parts of laws in conflict with this Act are repealed.